IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.8.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.26232 of 2007

M/s.Armstrong Spinning Mills (P) Ltd.,
No.22, Ramnagar 3rd Street,
Tirupur. .. Petitioner

vs.

The Commercial Tax Officer,
Tirupur North. .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari as stated therein.

For petitioner : Mr.K.J.Chandran

For respondent : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

2. This writ petition has been filed for issuance of a writ of Certiorari, calling for the records of the respondent in TNGST No.2303220/2001-02 and quash the proceedings, dated 31.5.2007, issued therein.

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3. It is submitted that the petitioner is a spinning mill and registered as a dealer on the files of the respondent. The petitioner manufactures cotton yarn and sells the same. In the usual course of business, the petitioner sells cotton yarn manufactured by it in the state of Tamil Nadu to registered exporters besides effecting local and interstate sales to other traders and manufactures. The petitioner has been carrying on business for the last several years. The respondent has all along been granted exemption on the sales of cotton yarn effected by the petitioner to registered exporters, as per Notification No.197(a) of 1970, dated 27.7.1970, on the petitioner producing proof of export by the exporters.

4. It is also submitted that for the assessment year 2001-02, the respondent, by issuing the impugned notice, dated 31.5.2007, in TNGST No.2303220/2001-02, had stated that "the dealers not exporters of yarn and they have manufactured hosiery goods and exported their products only. Hence the exemption already granted is not in order. The same has to be cancelled and the turnover of Rs.8,15,20,507.00 is to be assessed to tax".

5. The main contention of the petitioner is that even though the Notification No.197(a) of 1970, dated 27.7.1970, is applicable to the petitioner's yarn sold to the exporters, coming within the assessment year 2001-02, the respondent had wrongly issued the impugned notice, dated 31.5.2007, in TNGST No.2303220/2001-02, stating that the petitioner would not be eligible for the exemption.

6. The learned Additional Government Pleader, appearing for the respondent, has stated that objections have not been submitted on behalf of the petitioner to the impugned notice, dated 31.5.2007, in TNGST No.2303220/2001-02. It is also stated that once the objections are submitted by the petitioner to the said impugned notice, the same would be considered by the respondent, in accordance with law, including the Notification No.197(a) of 1970, dated 27.7.1970. (Gazette Notification dated 28.7.1970).

7. On such submissions being made by the learned counsels appearing on behalf of the parties concerned, the petitioner is permitted to submit its objections to the impugned notice, dated 31.5.2007, in TNGST No.2303220/2001-02, within a period of fifteen days from the date of receipt of a copy of this order. On such objections being submitted by the petitioner, the respondent is directed to consider the same, on merits and in accordance with law, and in view of the Notification No.197(a) of 1970, dated 27.7.1970, and pass appropriate orders thereon, within a period of four weeks thereafter.

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8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P. is closed.

akv

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Commercial Tax Officer,
Tirupur North.

+1 cc to Mr.K.J.Chandran,Advocate Sr.No.53322.

+1 cc to The Spl. Government pleader Sr.No.53086.

JSK(CO)
dcp/14.9

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